

### **COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	2196.05
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	November 29, 2004
DATE OF REPORT:	December 29, 2004
REQUEST FOR RECONSIDERATION:	yes/Revised January 28, 2005
DATE OF CLOSURE:	February 2, 2005

#### **COMPLAINT ISSUES:**

Whether the MSD Perry Township and the RISE Special Services violated:

511 IAC 7-27-9(b) by failing to make available to the student the variety of activities that are made available to non-disabled students, specifically, by failing to provide an interpreter for extracurricular basketball.

#### **FINDINGS OF FACT:**

1. The Student has been identified as a student with autism spectrum disorder, a communication disorder, and a hearing impairment and determined eligible for special education and related services.
2. The Student's mode of communication is sign language, and the School provides an interpreter for the Student during the school day. The Student's IEP, dated March 24, 2004, states that the Student shall participate in non-academic and extra-curricular activities and "may need an interpreter."
3. An after-school athletic program, including basketball, is conducted on the School's premises. The School acknowledges that its facilities are used for the basketball program and that School personnel participate in the basketball program as volunteers. By mistake, the newsletter and website of some elementary schools have referred to the athletic program as if it were a School-sponsored extracurricular activity.
4. The School denies that the basketball program is an extracurricular activity, as the School does not sponsor the athletic program and participation is not limited to public school students. The athletic program is sponsored by a non-profit organization (Sponsor). The Sponsor's Rules and By-laws state, "Please remember we are an Instructional League and are not directly affiliated with the township school corporation, and for this reason our teams are not 'School Teams.'" School facilities are made available to a variety of community organizations that apply for use of space. The Sponsor submitted the required application forms to the School and is billed for use of School facilities.
5. Since 1979, a sorority (Sorority) that raises funds for charitable purposes has donated funds for the benefit of students and parents with disabilities, in particular those with hearing or visual impairments. The Sorority's funds have been used by the School for goods and services for which the School is not responsible, such as eye examinations and glasses as well as interpreter services for students participating in the Sponsor's athletic program.
6. The Student sought to participate in the basketball program for the first time during the 2004-2005 school year. Initially, neither the School nor the Sponsor provided or arranged for an interpreter for the

Student. As the athletic program is not an extracurricular activity sponsored by the School, the School denied that it was responsible for providing or arranging for an interpreter for the Student.

7. After this Complaint was filed, an interpreter began interpreting for the Student during after- school hours so that the Student could participate in the basketball program.

## **CONCLUSION:**

Because Findings of Fact #3 and #4 indicate that the athletic program is not a School-sponsored extracurricular activity and because Finding of Fact #5 indicates that funds from a non-public source were used to pay for interpreters providing services during the athletic program, Findings of Fact #2 and #6 indicate that the School did not fail to make available to the Student the variety of activities that are made available to non-disabled students, specifically, by failing to provide an interpreter for extracurricular basketball. Therefore, a violation of 511 IAC 7-27-9(b) is not found.

**The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.**